

(2010) 04 KAR CK 0052

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 1116 of 2010

Aparanji Industries

APPELLANT

Vs

Hari Om Fragrance

RESPONDENT

Date of Decision : 08-04-2010

Acts Referred:

Trade Marks Rules, 2002 — Rule 61

Citation : (2010) 04 KAR CK 0052

Hon'ble Judges : Huluvadi G. Ramesh, J

Bench : Single Bench

Advocate : Udaya Shankar, for the Appellant; P.H. Ramalingam, for the Respondent

Judgement

Huluvadi. G. Ramesh, J.—The appellant has sought for to set aside the order dated 2.11.09 passed by the XVIII Addl. City Civil Judge, Bangalore, in O.S. No. 6150/09 and for such other orders.

2. By the impugned order, the trial Court has dismissed the application filed by the appellant for grant of interim order of temporary injunction, as the appellant could not produce the original documents i.e., Registration certificate as per Rule 61 of the Trademark Rules 2002.

3. Heard.

4. According to the learned Counsel for the appellant, he had to apply before the trade mark authorities to obtain the necessary certificates, which required sufficient time, as such, he could not produce the same at the time of filing the suit and further according to him, he has produced the xerox copies of the said documents before the trial Court.

5. However, the Counsel appearing for the respondent has submitted that no xerox copies are produced and the appellant is now seeking to produce the documents, which were not produced earlier and the same cannot be permitted.

6. On the ground that certain of the documents are not produced, the interim application has not been entertained by the trial Court. Of course, all the documents which the appellant sought to produce are said to be the certified copies and in obtaining the same, according to him, there was certain amount of delay. However, the grievance of the appellant would be met with, if he is allowed to produce the documents before the trial Court and it is for the trial Court to entertain those documents. However, the respondent could challenge the veracity of the documents before the trial Court.

7. Accordingly, appeal is allowed while setting aside the order passed by the trial Court in rejecting the application filed by the appellant and the appellant is permitted to produce all the documents before the trial Court. However, there would be due opportunity to the respondent to contest on all the documents to be produced by the petitioner. It is for the appellant and respondent to co-operate for early disposal of the matter and the trial Court shall dispose of the matter within six months from the date of receipt of this order.

In view of the above observations, Misc.Cvl.3593/10 does not survive for consideration.

ORDER ON BEING SPOKEN TO

Heard.

It is made clear that the trial court shall dispose of the matter within six months from the date of receipt of copy of this order and there is no question of dealing with the application filed once again either for injunction or on any other document to be produced, since, already this Court had directed the appellant to produce all the documents before the trial court, Misc. Cvl. 3593/10 is treated as allowed. Regarding injunction order is concerned, it would be duplication of the work to order to dispose of I.A. independently for injunction.